

2
38. (Amended) A composition according to claim 37, wherein the *Xenorhabdus nematophilus* species is ATCC 19061, NCIMB 40886 or NCIMB 40887.

3
40. (Twice Amended) A composition according to claim 37, which
a. has oral pesticidal activity against *Pieris brassicae*,
Pieris rapae and *Plutella xylostella*,
b. is substantially heat stable to 55°C,
c. acts synergistically with *B. thuringiensis* cells as an
oral pesticide,
d. is substantially resistant to proteolysis by trypsin
and proteinase K, and
e. has its pesticidal activity substantially destroyed by
treatment with sodium dodecyl sulphate or acetone on
heating to 80°C.

E
42. (Amended) A composition according to claim 37 which
comprises a further pesticidal material not obtainable from
Xenorhabdus.

S
46. (Amended) A composition according to claim 37 which further
comprises an agriculturally acceptable carrier.

K
48. (Amended) A method for killing or controlling insect pests,
which method comprises administering to a pest or the
environment thereof a composition according to claim 37.

50. (Twice Amended) A method for killing or controlling insect pests, which method comprises administering orally to the insect a composition according to claim 37.

Please add new claims 59-70:

59. (New) A pesticidal composition comprising a proteinaceous material which is obtainable from a *Xenorhabdus nematophilus* species and which is encoded by the nucleotide sequence of Figure 2 (SEQ ID No 1), or a variant thereof wherein said variant encodes a proteinaceous material which is at least 90% homologous to the proteinaceous material encoded by SEQ ID NO:1, said composition having toxic activity when administered orally to an insect.

60. (New) An agent according to claim 59, wherein the *Xenorhabdus nematophilus* species is ATCC 19061, NCIMB 40886 or NCIMB 40887.

61. (New) An agent according to claim 59, which

- has oral pesticidal activity against *Pieris brassicae*, *Pieris rapae* and *Plutella xylostella*,
- is substantially heat stable to 55°C,
- acts synergistically with *B. thuringiensis* cells as an oral pesticide,
- is substantially resistant to proteolysis by trypsin

and proteinase K, and

e. has its pesticidal activity substantially destroyed by treatment with sodium dodecyl sulphate or acetone on heating to 80°C.

62. (New) A composition according to claim 59 which comprises a further pesticidal material not obtainable from *Xenorhabdus*.

63. (New) A composition according to claim 62 wherein the said further pesticidal material comprises a material obtainable from *B. thuringiensis*.

64. (New) A composition according to claim 63 which further comprises cells of *B. thuringiensis*.

65. (New) A composition according to claim 64 wherein the pesticidal material obtainable from *B. thuringiensis* comprises the delta endotoxin.

66. (New) A composition according to claim 65 which further comprises an agriculturally acceptable carrier.

67. (New) A composition according to claim 66, wherein the carrier comprises items of insect diet.

68. (New) A method for killing or controlling insect pests, which method comprises administering to a pest or the environment thereof a composition according to claim 59.

69. (New) A method according to claim 68, wherein the pests are insects from the order Lepidoptera or Diptera.

70. (New) A method for killing or controlling insect pests, which method comprises administering orally to the insect a composition according to claim 59.

Please cancel original claims 39 and 41.

A marked-up version of amended claims 37, 38, 40, 42, 46, 48 and 50 is attached.

REMARKS

At the outset, Examiner McGarry is thanked for the courtesy extended to applicants' representatives in granting a telephone interview on January 23, 2003. In this interview, Examiner McGarry indicated that he would be favorably disposed to claims drawn to a composition comprising a proteinaceous material or toxin encoded by SEQ ID NO:1. The Examiner indicated that the written description and enablement provided in the present specification appeared adequate to support such claims.